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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,550	11/27/2001	Neil S. Eastman	7042-11	8200
7590	01/12/2005		EXAMINER ZIMMERMAN, BRIAN A	
Pablo Meles, Esq. Akerman, Senterfitt & Eidson, P.A. Post Office Box 3188 West Palm Beach, FL 33402-3188			ART UNIT	PAPER NUMBER
			2635	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,550

Applicant(s)

EASTMAN ET AL.

Examiner

Brian A Zimmerman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

EXAMINER'S RESPONSE**Status of Application**

In response to the applicant's amendment received on 9/22/04. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 1-4,6-20 are unpatentable for the reasons set forth in this office action:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4,6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolls (6389337) and Motegi (2001/002711).

Kolls teaches of a method of dynamic group addressing in a digital audio receiver unit comprising the steps of: Receiving a plurality of messages broadcast to a digital receiver among a plurality of digital audio receivers (**XM SATELLITE RADIO, heretofore XM radio, works by transmitting a time division multiple access (TDMA) signal to a receiver, each receiver obtains the TDMA signal as stated in the Background section of specification as**

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admitted prior art, Kolls describes the use of an XM radio as an audio receiver technology in his invention, Col 35, lines 15-20). Selectively decoding at least one of the plurality of messages broadcast based on a group selective call address chosen by the user **(XM radio already decodes messages based upon a selective call address as stated in the Background section of the specification disclosed as admitted prior art, Kolls teaches of monitoring the normal usage of the vehicle radio and selecting advertisement based upon radio settings, Col 36, lines 1-7. Kolls teaches that XM radio receiver can be used as a wireless data link to transmit data to the vehicle, Col 35, lines 10-20, thus necessitating selective decoding of XM radio broadcast).** Kolls teaches that the step of selectively decoding comprises the step: Modifying a group address stored in the digital audio radio based on said environmental input received to create a modified group address and comparing the modified group address with a received group address associated with one of the plurality of messages **(Kolls teaches of storing and modifying a group address of the in-vehicle device, such as an electronic cookie, for advertisement selection, Col 36, lines 51-57)**

Kolls teaches that the step of selectively decoding comprises the step: Comparing a group address stored in the digital audio radio with a received group address associated with one of the plurality of messages and further comparing a field appended to the received group address with a value corresponding to an environmental input. **(Appended fields are within the scope of XM radio to transmit such as genre, song title, and other**

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characterizing information that would help a consumer to determine content-worthiness of the channel. Kolls teaches comparison as claim 2 above). Kolls teaches that the step of selectively decoding comprises the step of comparing a received group address from one of the plurality of messages with an address in a current group address table that is updated with group addresses from a comprehensive group address table based on the environmental inputs received at the digital audio receiver **(Kolls teaches of storing and modifying a comprehensive group address, in the form of an electronic cookie, on a remote server which is based on environmental inputs, updating the current group address table, also in the form of an electronic cookie, of the in-vehicle device, Col 36, lines 8-23, and selecting advertisement based upon current group address. Advertisement selection shown as claim 2 above)**

In an analogous art, Motegi shows a method of assigning group id's to individuals based upon the state of the vehicle; for example the vehicle's speed, see paragraph 18 and 34. By assigning group id's to the individuals, the individuals are able to receive messages directed to a group of people with the same interests, needs or desires. See paragraph 34. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to send audio messages to users based upon their selective call address as taught by Kolls and additionally send audio messages to users based upon a group address assigned based upon a state of the vehicle as suggested by Motegi

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since this would permit users to listen to selected audio and audio that addresses a specific need of the vehicle.

The examiner takes official notice that the claimed vehicle state indicators or health conditions are common conditions in the art, and are known examples of "vehicle states, such as quantity of fuel or the like" as set forth in Motegi paragraph 34. Additionally a review of the applicant's disclosure lists a plurality of vehicle state (status) indicators as being equally appropriate in the instant invention. Throughout the specification (of the applicant) there is no mention that the specific type of vehicle state used is critical to the invention, which raises issue of criticality of the currently claimed list of vehicle states. Therefore, the use of any well known specific states of the vehicle to address the devices would have been obvious to one of ordinary skill in the art at the time of the invention, since such are within the realm of the teachings of Motegi.

Response to Arguments

Applicant's arguments filed 9/22/04 have been fully considered but they are not persuasive. The applicant argues that the references do not use the specific states of the vehicle now claimed to provide dynamic addressing. As discussed above, the examiner takes official notice that the claimed vehicle state indicators or health conditions are common conditions in the art, and are known examples of "vehicle states, such as quantity of fuel or the like" as set forth in Motegi paragraph 34. Additionally a review of the applicant's disclosure lists a plurality of vehicle state (status) indicators as being equally appropriate in the

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instant invention. Throughout the specification (of the applicant) there is no mention that the specific type of vehicle state used is critical to the invention, which raises issue of criticality of the currently claimed list of vehicle states. Therefore, the use of any well known specific states of the vehicle to address the devices would have been obvious to one of ordinary skill in the art at the time of the invention, since such are within the realm of the teachings of Motegi.

The applicant argues that Montegi fails to teach a satellite digital audio receiver as claimed. It is noted that Kolls teaches the use of a satellite digital audio radio to send services to the vehicle with its cellular phone interface 142.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian A Zimmerman
Primary Examiner
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BAZ